



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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October 16, 2013

**VIA CERTIFIED MAIL
70132250000157266410**

Michael Germata
324 Maple Avenue
Morgantown, WV 26501

**RE: V14-41 / Germata / 324 Maple Avenue
Tax Map 36, Parcel 525**

Dear Mr. Germata:

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced petition seeking variance relief from Article 1331.08(B) as it relates to the maximum height of fences at 324 Maple Avenue.

The decision is as follows:

Board of Zoning Appeals, October 15, 2014:

1. Three (3) of the four (4) findings of fact were found in the negative as stated in Addendum A of this letter.
2. The Board **denied** the subject variance relief petition based on the negative findings and conclusions stated in Addendum A of this letter.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days.

The Planning Division will sign-off on the Building Permit application that was submitted for the construction of the subject fence with the condition that said fence must meet related maximum height requirements. The Code Enforcement Office will contact you when the Building Permit application has been approved and ready for pickup. Please note that construction of the fence may not commence until the Building Permit has been issued.

Should you have any questions or require further clarification, please contact the undersigned.

Respectfully,

Christopher M. Fletcher, AICP
Director of Development Services

ADDENDUM A – Approved Findings of Fact

V14-41 / Germata / 324 Maple Avenue

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents because the fence is adjacent to a building and is for privacy only.

Finding of Fact No. 2 – The variance DOES NOT arise from special conditions or attributes which pertain to the property for which a variance is sought as the predominate slope and physical features of the immediate vicinity does not appear to be unique to the petitioner's property.

Finding of Fact No. 3 – The variance will NOT eliminate an unnecessary hardship and permit a reasonable use of the land because a hardship does not appear to exist that prevents the petitioner's pursuit of desired privacy. Alternate by-right, privacy measures might include incorporating lattice or similar fence design elements of $\leq 50\%$ opacity between the 6.5-foot and 8-foot elevation heights and/or the planting of evergreen shrubs and/or bushes that can grow to the desired height.

Finding of Fact No. 4 – Variance relief is NOT necessary to ensure that the purpose and intent of the maximum fence height standard is observed. Substantial justice is provided under the standard as the petitioner may pursue a fence height of eight (8) feet if designed as permitted by-right. Further, alternate privacy measures can be pursued.